Paper No. 78

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HIROYUKI KIMURA,
KOJI TAKAHASHI, KAZUNOBU URUSHIHARA,
SUSUMU MATSUMURA, MAKOTO KATSUMA,
and HIROSHI OHMURA

Appeal No. 1999-0142
Application 08/542,330[1]

ON BRIEF

Before BARRETT, RUGGIERO, and LALL, Administrative Patent Judges.

BARRETT, Administrative Patent Judge.

DECISION ON APPEAL

[1] Application filed October 12, 1995, entitled "Method Of Processing An Image Such As A Still Image."

This is a decision on appeal under 35 U.S.C. § 134 from the final rejection of claims 29-40.

We reverse.

BACKGROUND

The disclosed invention relates to an image conversion system and method for electronically processing an original image signal to add a "cross screen filter" effect to a still image after it is photographed. With a "cross screen filter" effect, bright beams can be generated radially from a high luminance portion of an image, as shown in figure 14. A still image, such as figure 13, is converted into an electrical image signal. The bright portion of the image is extracted and a bright line having a predetermined length is formed by shifting the bright signal in a predetermined direction(s) for a predetermined distance. The bright line signal is synthesized with the image signal to produce the cross screen filter effect, as shown in figure 14.

Claim 38 is reproduced below.

> 38. An image processing method comprising:
>
> an extracting step for extracting a bright portion of an image signal;
>
> a shifting step for shifting the bright portion in a predetermined direction to form a bright line signal; and

a synthesizing step for synthesizing the bright line signal with the image signal.

The Examiner relies on the following prior art:

Seely	4,557,578	December 10, 1985
Strobel	4,589,749	May 20, 1986

Claims 29-40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Strobel and Seely.

We refer to the final rejection (Paper No. 67) and the examiner's answer (Paper No. 73) (pages referred to as "EA__") for a statement of the Examiner's position, and to the appeal brief (Paper No. 72) (pages referred to as "Br__") and the reply brief (Paper No. 74) (pages referred to as "RBr__") for a statement of Appellants' arguments thereagainst. The Examiner noted entry of the reply brief (Paper No. 75).

OPINION

Strobel and Seely are directed to camera viewfinders, not image signal processing. It is clear that neither reference is directed to Appellants' disclosed invention of a signal processing system and method for electronically processing an original image signal to add a cross screen filter effect to the still image after it is photographed. Nevertheless, it is possible that claim language can be so broad that it reads on or is rendered obvious over prior art in

an unintended manner. Viewing the Examiner's rejection in the light most favorable to the Examiner, we presume this is the Examiner's position. Otherwise, the Examiner has failed to show even one element of the claimed subject matter.

We conclude the Examiner erred.

First, the claims all recite an "image signal" and neither Strobel nor Seely produces an "image signal." Claim 29 recites an "original image signal" and claims 35 and 38 recite an "image signal," As noted by Appellants (RBr2), a "signal" is defined as "a detectable physical quantity or impulse (as a voltage, current, magnetic field strength) by which messages or information can be transmitted." An "image" per se, as viewed through a viewfinder or captured on film, as in Strobel and Seely, is not considered an "image signal" because it is not in a physical form that can be transmitted or manipulated. The Examiner finds (EA4) that Strobel produces an original image signal, referring to the camera and column 4, lines 10-12. However, the image produced on film in the camera is not considered an image signal, and column 4, lines 10-12, only refers to the image in the viewfinder which is not considered an image signal. Thus, we agree with Appellants' arguments (Br8-9;

Br11-12; RBr2) that the Examiner erred in finding that Strobel and Seely disclose producing an "image signal."

Second, even assuming, arguendo, that the viewfinder and film images in Strobel and Seely could be broadly considered to be "image signals," Strobel and Seely do not perform the functions of "extracting a bright signal of a bright portion of the original image signal . . . and . . . forming a bright line having a predetermined length by performing a shifting of the bright signal in a predetermined direction," as recited in claim 29, or "extracting a bright portion of an image signal . . . [and] shifting said bright portion in a predetermined direction to form a bright line signal," as recited in claims 35 and 38. That is, Strobel and Seely do not perform any signal processing on an "image signal" to form a "bright line" or "bright line signal." The Examiner points to column 4, lines 55-66, of Strobel for the functions of "extracting" and "shifting to form a bright line." The "bright-line image" in Strobel refers to the image of the four partially-reflecting surfaces 33 in figure 2, corresponding to the corners of the distant-subject frame 25, on the partially-reflecting surface 39 of the mirror 35 whenever ambient light is in the viewing path (col. 4, lines 55-61). The partially-reflecting surface 27 corresponding to the corner of

the near-subject frame 21a is positioned to reflect ambient light away from the surface 39 of the mirror 35 (col. 4, lines 61-66). In the near-subject setting, the LED 9 is energized to direct light toward surface 27 and from there toward surface 39 of mirror 35. Thus, the "bright-line image" in Strobel is just a reflection, either from surfaces 33 for a distant-subject frame or from surface 27 for a near-subject frame, that is superimposed on the image in the viewfinder indicating the field of view of distant and near subjects. The reflections are superimposed at the same locations regardless of the brightness of the image in the viewfinder. There is no processing of an image signal. While there is a shift from the reflections of surfaces 33 to a reflection of surface 27 when going from distant to near subjects, this has absolutely nothing to do with extracting a bright portion of an image signal and shifting it to form a bright line. Thus, we agree with Appellants' arguments (Br9-10; Br12; RBr3) that the Examiner erred in finding that Strobel and Seely disclose "extracting a bright portion from an image signal" and "shifting the bright signal to form a bright line."

Third, since Strobel and Seely do not produce an "image signal," and do not disclose "extracting a bright portion from an image signal" and "shifting the bright signal to form a bright line,"

they do not perform the function of "synthesizing the bright line . . . with the original image signal," as recited in claim 29, or "synthesizing said bright line signal with said image signal," as recited in claims 35 and 38. Strobel merely superimposes a reflected image, either from surfaces 33 for a distant-subject frame or from surface 27 for a near-subject frame, on the image in the viewfinder to show the field of view of distant and near subjects. Neither Strobel nor Seely discloses "synthesizing a bright line signal" (as signal has been defined) with an "image signal." Thus, we agree with Appellants' arguments (Br10-11; Br12; RBr3) that the Examiner erred in finding that Strobel and Seely disclose "synthesizing a bright line signal" (as signal has been defined) with an "image signal."

For the reasons discussed above, we conclude that the Examiner has failed to show any of the limitations of the three independent claims. Accordingly, the rejection of claims 20-40 is reversed.

REVERSED

LEE E. BARRETT)
Administrative Patent Judge)

JOSEPH F. RUGGIERO Administrative Patent Judge	BOARD OF PATENT APPEALS AND INTERFERENCES
PARSHOTAM S. LALL Administrative Patent Judge	

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, NY 10112-3801